

Application Number	16/00880/AS
Location	St Marys Church, Church Lane, Hastingleigh, Kent TN25 5HN
Grid Reference	61020/ 14450
Parish Council	Hastingleigh
Ward	Saxon Shore
Application Description	Construction of a single storey extension on the north side of the church
Applicant	Hastingleigh Parochial Church Council
Agent	n/a
Site Area	0.18Ha

(a) 3 / 1x (b) + (c) KCC H&C x, HE x

Introduction

1. This application is reported to the Planning Committee because of a request from Councillor Howard and because there is now an appeal against its non-determination.

Site and Surroundings

2. The application site is located approximately 650m to the south east of Hastingleigh and is accessed from Church Lane.
3. The application site is located within the North Downs Area of Outstanding National Beauty (AONB). The aim of AONB designation is to protect and enhance natural beauty while recognising the needs of the local community and economy. The Kent Downs is the eastern half of the North Downs, covering nearly a quarter of Kent. It stretches from the White Cliffs of Dover up to the Surrey and London borders. It's a diverse and vibrant landscape with dramatic chalk escarpments, secluded dry valleys, networks of tiny lanes and historic hedgerows, ancient woodlands, traditional orchards, locally distinctive villages, unique and precious wildlife and many sites of historic and cultural interest.

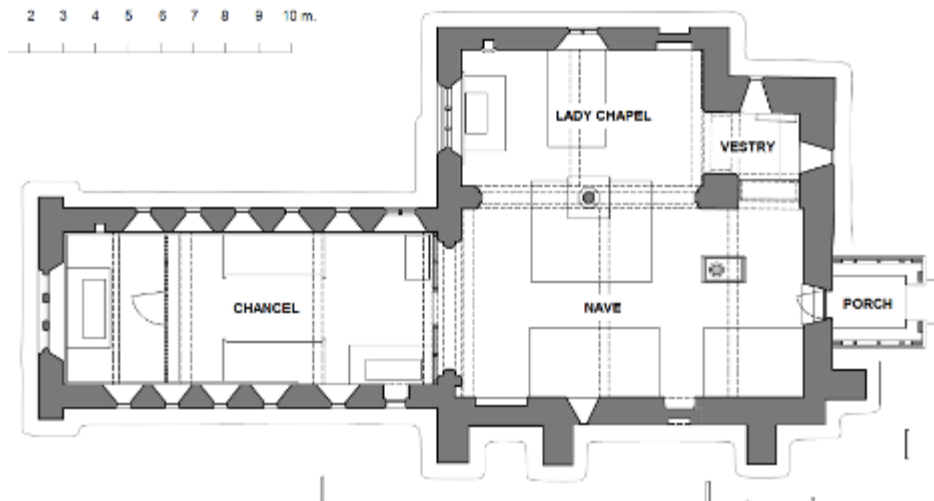
4. The application site consists of a Grade I listed church and is surrounded by a small number of farm buildings and residential properties forming a collective hamlet. Further to the south and north are open expanses of farmland.
5. Listed buildings are graded I, II* or II with grade I being the highest. Listing includes the interior as well as the exterior of the building, and any buildings or permanent structures within the curtilage. English Heritage is responsible for designating buildings for listing in England. The listing of the church is described as follows:

Parish Church. CII, C13 chancel and tower, C14 south aisle and porch. Chancel, nave with south aisle, south west tower and western porch. Flint, the upper stages of the tower rebuilt in red brick, with plain tiled roof. Roll moulded west door with hollow moulded hood set in C14 timber porch on flint base, with cusped bargeboard. Crown post roof and benches within porch. Massive offset buttresses to north nave. Heavily restored outer jambs of Chancel lancets and decorated style nave windows (downpipe hopper dated 1879). Exposed jambs of possible Anglo-Saxon north door, with C12 blocked round headed doorway set within. Interior: 2 bay south arcade on octagonal piers, with double chamfered arches, westernmost respond later in character. Identical chancel arch. Jambs of tall, possibly Anglo-Saxon north door. Roof of 3 crown posts. C13 double chamfered arch to south west tower, with identical arch to south aisle (the arcade therefore a later rebuild of original C13 aisle openings). Roof of 2 crown posts and brackets. Chancel with 2 light ogee headed south-western window, otherwise 4 closely packed and uneven lancets to each of north and south walls, with string course. Triple lancet east window with string course. Roof of 4 crown posts, with extra moulded tie beam. Fittings: simple trefoiled and deeply chamfered piscina in chancel, and aumbreys in south and north walls. Turned baluster altar rail c. 1700, and contemporary panelled pulpit. Some late medieval/C17 panelling reused in dividing screens in church after 1879 removal of box pews., C15 rood screen, with 5 bays with depressed ogee arch and 6 traceried lights over in each flanking bay. Simple arched piscina to south aisle. Wall paintings in nave (within a round headed niche) and aisle (The Annunciation). C13 grisaille glass, a complete lancet in the chancel north wall, and 2 C16 armorial windows in the south wall. Brass in nave floor, John Halke, d, 1604, and Anne his wife (d. 1596). Simple inscription set in marble slab with a detached hawk over (Grandparents of Dr. William Harvey, the discoverer of circulation of blood). See B.O.E. Kent II, 1983, 346; church guide).

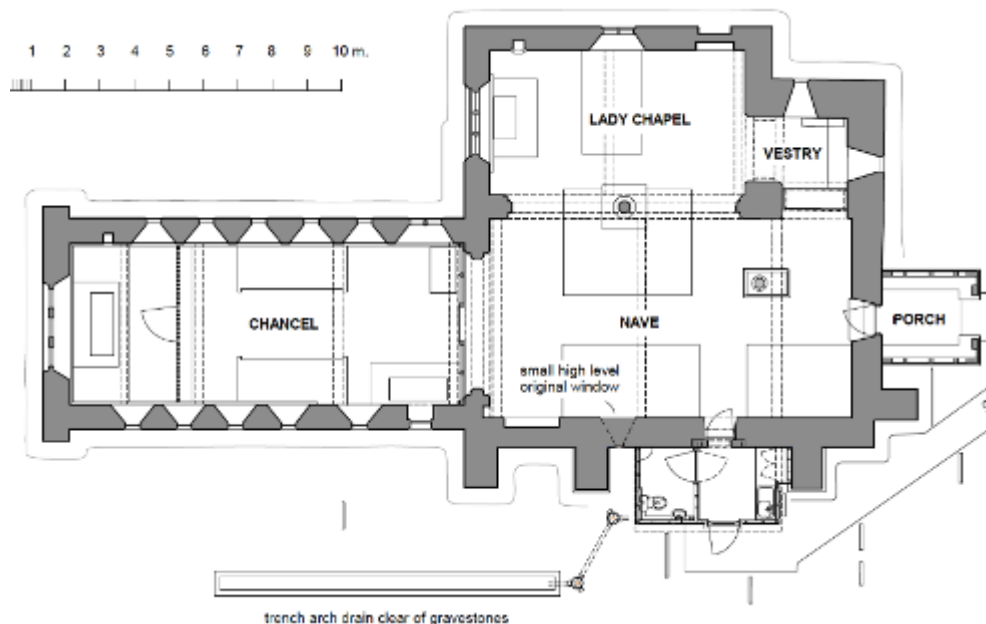
6. The application was accompanied by a statement of significance and a statement of need which are summarised in the following section.

Proposal

- The application seeks a single storey extension to the southern elevation to provide a kitchen and toilet with level wheelchair access to the main building.



Existing floorplan



Proposed floor plan

8. For the avoidance of doubt the application was accompanied by the following plans and documents:

Plans	Ref
Location plan	
Site plan	RY01
Existing site layout of churchyard	RY02
Existing floor plan	RY03
Existing floor plan layout	RY04
Proposed floor plan	RY05
Extension floor plan	RY06
Proposed roof plan	RY07
Section looking east	RY08
North elevation existing	RY09
North elevation proposed	RY10
North elevation of nave	RY11
Stonework of north door	RY12
Options considered A	RY13
Options considered B	RY14
Options considered C	RY15
Impact assessment sketch	RY16

Documents	Ref / date
Application form	n/a

Documents	Ref / date
Statement of need	n/a
Statement of significance	n/a

9. The 'statement of significance' is summarised as follows:

- Original church was a single cell Norman building
- Three principle additions were made soon after including the tower, south aisle and single pillar arcade
- Original building principally of flint with rag stone dressings with thin soft old lime rendering of richly varying colour on parts of the chancel side walls particularly on the north side
- Restorations in the late 1870's, mainly to the roof
- Some extensions and modifications in the 19th century but have not eroded the character of the church
- Site is sloping with ground level on the south side higher than the floor of the church
- Access includes steps up at the lych gate and down to the porch
- The building continues to have considerable presence and charm

10. The 'statement of need' is summarised as follows:

- Part of a 'cluster' group within the Wye ministry
- Once a month a service is held with 40 to 50m people present
- Twice a year Bodsham CofE Primary has a service at the church and there are other visits through the year
- Demand is necessary for the proposed extension due to regular use of church
- No suitable existing facilities on site and accommodating within the main body of the building would be preferable

- Disabled access is a particular problem due to existing steps required to enter the church
- Alternatives have been considered however discounted on architectural and practical grounds

Planning History

14/01386/AS – Small weather boarded extension between buttresses on north side of church providing a lavatory and simple facilities & short path to extension door providing step-free wheelchair access to church. – withdrawn 3rd March 2015

Listed building consent is not required for the alteration or extension of a listed ecclesiastical building of any denomination provided that the building is used for ecclesiastical purposes both before and after the works.

Consultations

Ward Members - The Ward Members are not a member of the Planning Committee and have not expressed a view.

Parish Council – no views received.

Historic England – comments and concerns raised:

- Before the application is determined it is recommended that all possible means of reducing harm to heritage significance is explored
- If the Council consider that level access along with a toilet and kitchenette are all essential for securing the ongoing public use of the church, the proposed scheme is undoubtedly harmful, but Historic England conclude that it is nonetheless likely to be the least harmful means of providing all three facilities (toilet, kitchenette and level access)
- A lesser scheme, entailing much less harm to significance, would be reasonable in these circumstances and should be the Councils objective in this case
- Both toilet and kitchenette could be added to the interior of this church without disrupting the existing seating, in the manner of Option C but with the font retained in situ and the entrance steps unaltered. This solution would not have much effect on the significance of the listed building either, but the downside is that it would not provide level access
- An alternative to the disabled ramp could be to reduce the number of steps at the west end by lowering the access path, and the remaining steps could perhaps be negotiated when required with demountable ramps. This sort of solution is

employed in countless rural churches around the country and could be done here with equally little harm to significance

KCC Heritage and Conservation – objection on the following grounds:

- In view of the possible impact on very sensitive and rare Early Medieval structural remains and possibly on unmarked graves, I recommend the need for specialist archaeological assessment. There needs to be an assessment of the northern wall and visible structural remains within the area of proposed alteration. There also needs to be an assessment, possibly fieldwork, to clarify the extent of unmarked graves within the area of proposed extension.

Neighbour Representation. There has been 1 letter of objection received and their comments are summarised as follows:

- Alternative location could be within the car park area which would remove the need to move a gravestone
- Concerns regarding the ‘trenchard pipe’ as the land of Court Lodge is below that of the church and reconnecting the church water supply could lead to contamination

Planning Policy

11. The Development Plan comprises the saved policies in the adopted Ashford Borough Local Plan 2000, the adopted LDF Core Strategy 2008, the adopted Ashford Town Centre Action Area Plan 2010, the Tenterden & Rural Sites DPD 2010, the Urban Sites and Infrastructure DPD 2012, the Chilmington Green AAP 2013 and the Wye Neighbourhood Plan 2015-30. On 9 June 2016 the Council approved a consultation version of the Local Plan to 2030. Consultation commenced on 15 June 2016 and has now closed. At present the policies in this emerging plan can be accorded little or no weight.
12. The relevant policies from the Development Plan relating to this application are as follows:-

Ashford Borough Local Plan 2000

EN23 Sites of archaeological importance

Local Development Framework Core Strategy 2008

CS1 Guiding Principles

CS2 The Borough Wide Strategy

CS9 Design Quality

CS20 Sustainable Drainage

Local Plan to 2030

SP1 Strategic Objectives

SP6 Promoting High Quality Design

ENV8 Water Quality, Supply and Treatment

ENV9 Sustainable Drainage

ENV13 Conservation and enhancement of heritage assets

13. The following are also material to the determination of this application:-

Supplementary Planning Guidance/Documents

Landscape Character Assessment SPD 2011

Sustainable Drainage SPD 2010

Government Advice

National Planning Policy Framework (NPPF) 2012

14. Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are most relevant to this application:-
15. Paragraph 14 sets out presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted (such as in case policies regarding Listed Buildings).
16. Paragraph 56 states that there is a great importance to the design of the built environment. Good design is a key aspect of sustainable development, is

indivisible from good planning, and should contribute positively to making places better for people.

17. Paragraph 129 states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.
18. Paragraph 131 states that in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.
19. Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.
20. Paragraph 133 states that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
 - the nature of the heritage asset prevents all reasonable uses of the site; and
 - no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
 - conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and

- the harm or loss is outweighed by the benefit of bringing the site back into use.
21. Paragraph 134 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
22. Paragraph 140 states that local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.

National Planning Practice Guidance (NPPG)

23. The section entitled 'conserving and enhancing the historic environment' provides guidance to accompany the NPPF when assessing development proposals and their impact upon Listed Buildings.

Assessment

24. The main issues for consideration are:
- Principle of the development – impact upon the setting of the listed building
 - Other considerations

Principle of development – impact upon the listed building

25. When considering the impact of proposals on listed buildings all advice is now contained within the NPPF, especially in light of the fact that no policies in the existing Local Plan relating to this matter were 'saved'. The context behind those relevant policies has been outlined in the policy section above.
26. After extensive recent case law from the 'Barnwell Manor' judgment¹ there is clarity on the correct approach in assessing impact on the settings of listed buildings in light of the section 66(1) duty² and relevant paragraphs of the Framework.

¹ East Northamptonshire District Council v Secretary of State for Communities and Local Government [2014] EWCA Civ 137; [2015] 1 WLR 45

² Section 66(1) Planning (Listed Buildings and Conservation Areas) Act 1990

27. Paragraph 134 (read together with 132 and 133) of the Framework lays an approach which corresponds with the duty in section 66(1) and a decision maker who works through those paragraphs in accordance with their terms, will have complied with the section 66(1) duty.
28. St Marys church is a Grade I listed building and is therefore afforded the greatest protection for a listed building. As paragraph 132 states, "*when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be.*" The main issue with the proposed development is that insufficient information and justification has been provided. The Framework is clear in that any harm or loss should require "*clear and convincing justification*". The application fails to fully explore alternative options for the proposals and, as Historic England have highlighted, there are alternatives that would cause much less harm to the significance of the building. Where there is harm it needs to be minimised (para 129 of the NPPF) and then weighed against the public benefits of the application (in this case applying para 134). The public benefits to the scheme are not in dispute however the Council must follow the process set out in the NPPF and ensure that the harm is first minimised and then weighed against those public benefits.
29. Through the process the applicant was asked to provide additional information and to explore alternative locations for the proposal. The applicant has stated that there is no intention to remove or disturb any part of the ancient walling surrounding the north door or anywhere else. Drawing RY12 however shows the existing archway opening made both wider and taller. Historic England has not objected in principle to the work but have advised that they need to be clear about what the consequent impacts would be. Without knowing the impacts it is not possible to explore ways of minimising any associated harm or to know what level of public benefit is required to offset it. In the absence of this additional information or exploration of alternatives it would be impossible to make a positive recommendation to the proposals.
30. Furthermore KCC Heritage and Archaeology have expressed concern with regards the possible impact on very sensitive and rare Early Medieval structural remains and possibly on unmarked graves. It was recommended to the applicant that a specialist archaeological assessment is provided to assess the impact of the proposal on the northern wall and visible structural remains within the area of the proposed alteration. There was also a recommendation to provide an assessment to clarify the extent of unmarked graves within the area of the proposed extension. None of this information has to date been provided.

31. The principle of this application is therefore unacceptable as it is inconsistent with the aims and aspirations of the NPPF and in particular paragraphs 126 to 136.

Other considerations

32. Comments have been received from a resident regarding the topography of the site and the potential contamination problems that could occur from reconnecting the church water supply. In drainage terms the size of the proposal is modest and ABC drainage of the Environment Agency would not be consulted. The application lacks in detail regarding the drainage but in light of the other problems with the application as well as the fact building regulations requires Southern Water approval of any connection it is considered that a safe underground connection could be achieved.

Human Rights Issues

33. I have also taken into account the human rights issues relevant to this application. In my view, the "Assessment" section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

Working with the applicant

34. In accordance with paragraphs 186 and 187 of the NPPF, Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner as explained in the note to the applicant included in the recommendation below.

Conclusion

1. Without knowing the impacts it is not possible to explore ways of minimising any associated harm or to know what level of public benefit is required to offset it. In the absence of this additional information or exploration of alternatives it would be impossible to make a positive recommendation to the proposals.
2. Furthermore KCC Heritage and Archaeology have objected to the development due to the possible impact on very sensitive and rare Early Medieval structural remains and possibly on unmarked graves.

Recommendation

I recommend that Members resolve that if they had been in a position to determine this application then they would have refused the application on the following grounds:

The proposal is contrary to policies EN23 of the Ashford Borough Local Plan 2000, Policies CS1, CS2 and CS9 of the Local Development Ashford Borough Council Framework Core Strategy 2008; Policies SP1, SP6 and ENV13 of the Ashford Local Plan 2030 (consultation draft), Central Government guidance contained in the NPPF as a whole and would therefore constitute development harmful to interests of acknowledged planning importance for the following reasons:

- 1 Insufficient information has been provided to provide a clear and convincing justification that the benefits of the proposal outweigh the harm that would be caused to the Grade I listed church. Alternative options have not been fully explored that could cause less harm. The public benefits that have been identified do not outweigh the harm and in particular the impact of the proposal on the ancient walling surrounding the north door.
- 2 Insufficient information has been provided, in the form of an archaeological assessment, to understand the possible impact on very sensitive and rare Early Medieval structural remains and possibly on unmarked graves.

Note to Applicant

1. Working with the Applicant

Working with the Applicant

In accordance with paragraphs 186 and 187 of the NPPF Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
- where possible suggesting solutions to secure a successful outcome,
- informing applicants/agents of any likely recommendation of refusal prior to a decision and,
- by adhering to the requirements of the Development Management Customer Charter.

In this instance:

- The applicant/agent was updated of any issues after the initial site visit,
- The applicant was provided the opportunity to submit additional information or amendments.
- Input from the Council and stakeholders dates back to 2008 when a pre application enquiry was submitted. The Council have tried to work with the Applicant and in particular considered alternative locations for the proposal. An agreed position has not yet been achieved.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

Background Papers

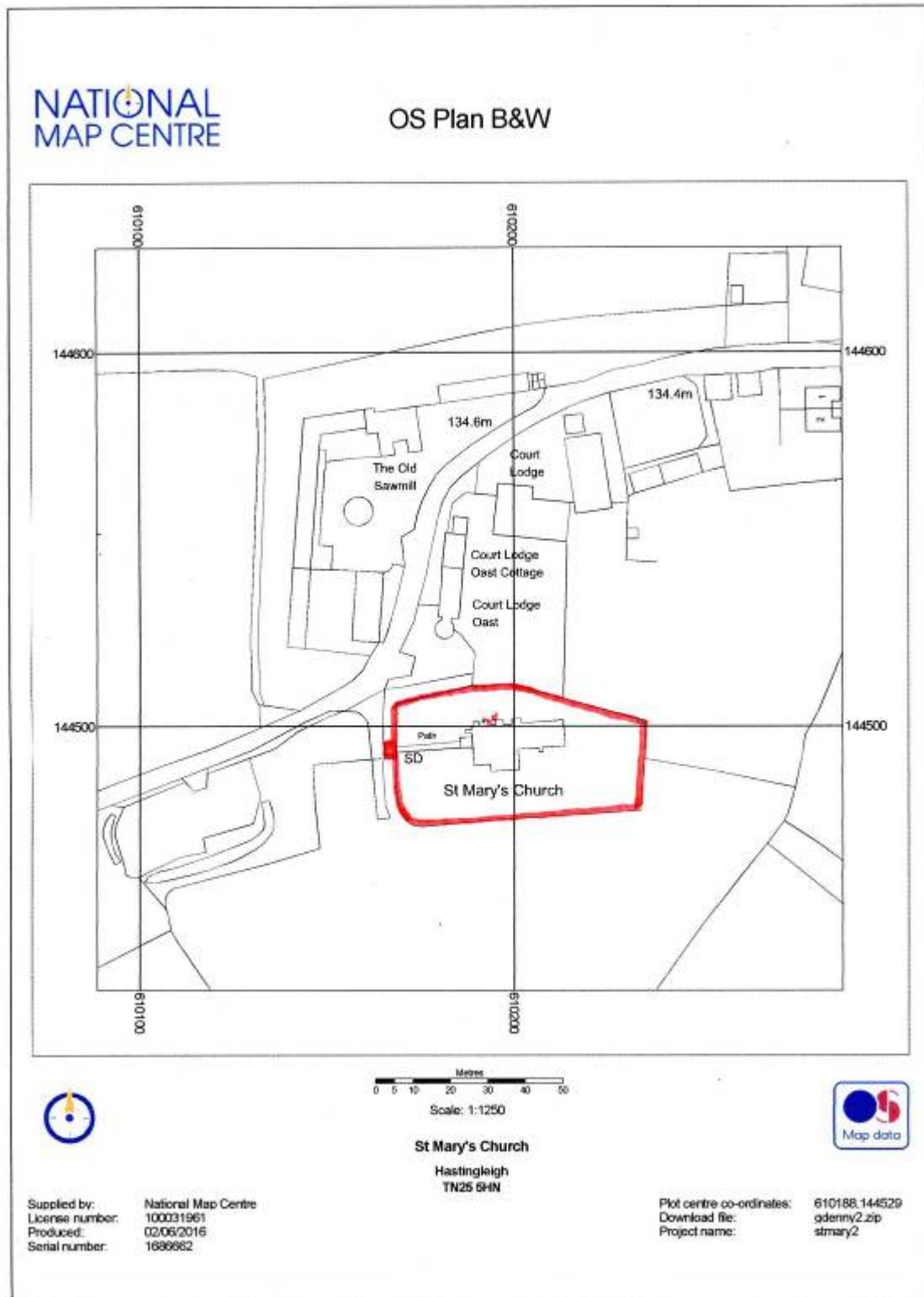
All papers referred to in this report are currently published on the Ashford Borough Council web site (www.ashford.gov.uk). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference 16/00880/AS.

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Annex 1



ST MARY'S CHURCH, HASTINGLEIGH

RY 01